



Gujarat Narmada Valley Fertilizers & Chemicals Ltd.

Mini GCP (General Conditions of Purchase)

Important Instructions

Along with the offer, Vendor to return copy of Mini GCP duly signed, dated and stamped in token of their unconditional acceptance of the same. Deviations, if any in acceptance of Mini GCP terms should be clearly highlighted in the offer.

1. Definitions

- a. Purchaser: "Purchaser" means Gujarat Narmada Valley Fertilizers & Chemicals Limited (GNFC) having its registered office at P.O. Narmadanagar, Dist : Bharuch, Gujarat, India, PINCODE : 392015. The term Purchaser includes successors and assigns of GNFC.
- b. Consultant: "Consultant" means any agency or agencies which is/are appointed as Consultant to GNFC and notified from time to time to all concerned.
- c. Vendor: "Vendor" means the person, firm, company or institution to which the purchase order is addressed. The term Vendor includes its successors and assigns, permitted by the purchaser.
- d. Goods : "Goods" means the articles; supplies, drawings, data, the other property and all services including design, delivery, installation, inspection, testing and commissioning specified or required to complete this purchase order.
- e. Purchase Order: "Purchase order" shall mean an order placed, if any, against present enquiry by the Purchaser on the Vendor with respect to the supply of goods.

2. Prices and Price Escalation: Except in the event of any different agreement mentioned in the purchase order, prices are firm and fixed and not subject to increase notwithstanding any change in the cost of materials or of labour or any of other cost element which may take place while purchase order is being executed, even though it might be necessary for Vendor for any reasons whatsoever, to take longer than the scheduled delivery periods indicated in the purchase order.

3. Taxes, Duties & Statutory Levies

- a. Vendor shall specify in their offer, the details of taxes, duties which are recoverable from the Purchaser at actuals. All other taxes, duties are to Vendor's account. Vendor shall adjust taxes, duties, cess or levies wherever required, if Purchaser furnishes exemption certificate even retrospectively.
- b. Variations in the taxes and duties due to change in statute during contractual delivery period shall be to Purchaser's account. However, any increase in Taxes/Duties beyond contractual delivery period shall be to Vendor's account.
- c. Whenever prices are inclusive of taxes/duties, for any reduction in taxes/duties subsequent to placement of purchase order, Vendor shall pass on the benefit of such reduction to Purchaser.
- d. When claiming sales tax and excise duty, Vendor shall indicate **their** sales tax registration number and excise registration details.

4. Payment & Terms of Payment

a. Payment

- i. Payment will be made in accordance with applicable provisions of the purchase order. The time for payment of invoice(s) or for accepting any discounts offered shall be counted only from the date of approval specified in the purchase order or from the date of receipt of Vendor's correct invoice(s) whichever is later.
- ii. Goods dispatched by VPP shall not be accepted.
- iii. Vendor shall send invoice in triplicate to the person / department designated in order, with an additional copy marked to and separately mailed to Authority issuing the Purchase Order. The invoice should bear the purchase order number and date, and must be complete in all respect to claim CENVAT and VAT Credits.
- iv. Bank Commission and other charges, if any, on forwarding of documents or for remittance, etc., will be to Vendor's account.
- v. Purchaser shall have right to adjust claim of either Purchaser or any of the Consultants against dues payable to the Vendor.

b. Terms of Payment: Unless and otherwise specifically agreed to in the purchase order, the Payment would be made as under :

For Supply and Delivery orders, 100% payment will made by cheque within 30 days of receipt of materials at purchaser's site subject to its acceptance and submission of correct & complete invoice(s).

5. Delivery Completion:

- a. Irrespective of whatever may be the terms of despatch or place of delivery mentioned in the Purchase Order and notwithstanding the fact whether any inspection of goods by Purchaser, its Consultants or their authorized representatives prior to their receipt at site was made or not, delivery of goods, shall be deemed to have been made only when goods are accepted by GNFC

at its site specified in purchase order. The delivery of goods would be complete only when all the items included in the Purchase Order are supplied by Vendor as per the agreed terms contained herein.

- b. Wherever the Goods are delivered by Vendor's transport agent, the unloading at Purchaser's premises shall be done by Vendor's agent unless otherwise agreed to.
- c. Acceptance of the Goods does not limit the right of Purchaser in preferring any claim under the terms of the Purchase Order.

6. Delays

- a. **Adherence to Delivery Schedule:** The agreed period of delivery is the essence of the purchase order. The delivery dates are binding on the Vendor and no variation of scheduled delivery dates shall be permitted except with prior written authorization from the Purchaser.

In the event of delay on the part of Vendor, it will be at Purchaser's discretion either to reject the goods or to accept delivery at prices reduced pro-rata at the rate not exceeding 1/2% of total purchase value i.e. purchase order value inclusive of taxes, duties and all incidentals for delay of each week or part thereof. However, the total reduction on this account in no case shall exceed 5% of the total purchase order value.

- b. **Due to Force Majeure:** Delivery dates will be extended without the Vendor being subject to clause 5 & 6 (a) in the event of delays due to Force Majeure. Only the following will be considered as causes of force majeure conditions: acts of God like earthquakes, floods, storms, cyclone hurricane, etc.; acts of States, the direct and indirect consequence of wars (declared or undeclared), hostilities, act of terrorism, national emergencies, civil commotions and strikes (only those which exceed duration of ten continuous days) at Vendor's factory. The Vendor shall, within 2 days of occurrence of such events, inform the Purchaser and the Consultant by registered and detailed letter supported by documentary proof of the beginning and the end of all such impediments. It is understood that delivery dates will be extended only for the duration of the above mentioned impediments.

7. Delay and Non-Conformance

- a. If the specified delivery schedule is not adhered to or progress of manufacture of supply of the items is not satisfactory, or is not in accordance with progress schedule, the Purchaser has a right to:

- i. hire for period of delay from elsewhere goods which in Purchaser's opinion would meet the same purpose as the goods which are delayed and Vendor shall be liable without any limitation for payment of the hire and other installation, removal, charges; etc

or

- ii. cancel the Purchase order in whole or in part without liability for cancellation charges. In such an event, Purchaser may procure from elsewhere goods which, in Purchaser's opinion, would meet the same purpose as the goods for which purchase order was placed and subsequently cancelled and Vendor shall be liable without any limitation for the payment of difference between the cost of such substitution and the price set forth in the purchase order for goods involved;

or

- iii. hire the substitute goods vide (i) above for such period as it thinks fit and if the ordered goods continue to remain undelivered thereafter, cancel the order in part or in full vide (ii) above.

- b. In the event of rejection of non-conforming goods, Vendor shall be allowed, without any extension of delivery time, to correct the non-conformities. Should however, Vendor fail to do so within the stipulated time, Purchaser may cancel the purchase order of the nonconforming goods and retain the same right with respect to substitution as are set out in the preceding paragraph (7a) and in addition, recover actual expense incurred by Purchaser in installing and removing the non-conforming goods. Alternatively, Purchaser may at its option have or cause the non-conformity goods to be corrected at Vendor's risk and expense.
- c. If Vendor fails to perform any of its obligations, the Purchaser shall be entitled to all remedies provided by law and recover all damages caused to the Purchaser by delay or non supply of the goods or supply of non-conforming goods and to obtain adequate compensation thereof, from the Vendor.
- d. Purchaser shall have the right to claim damages for use of defective or sub-standard goods supplied by the Vendor irrespective of the fact whether goods were inspected prior to receipt by the Purchaser or not.

8. **Deferment of Despatch Date and Storage:** The Purchaser shall have at its own discretion the right to ask Vendor to defer despatch of goods by a period not exceeding 30 days. The care and storage of the goods during this period shall vest with the Vendor and all expenses in this regards shall be borne by the Vendor.

- 9. Transit Insurance:** Purchaser shall insure the goods in transit under a general policy and issue necessary instructions to Insurance Company for risk cover on receipt of despatch instructions by fax/e-Mail from Vendor.
- Vendor shall quote rate(s) excluding transit insurance.
 - Vendor shall send advance intimation to Purchaser about despatch of goods to take care of transit insurance
- 10. Weights and Measurement:** All weights and measurements recorded by Purchaser on receipt of the goods at Plant site of the purchaser shall be treated as final and binding to the Vendor and shall not be open to any dispute or question by the Vendor.
- 11. Complete Agreement**
- a. The Purchase Order with all its attachments including these Terms and Conditions constitute sole and the entire agreement between the parties hereto.
 - b. Vendor's quotations are incorporated in and made a part of the Purchase Order only to the extent of specifying the nature and description of Goods ordered, and then only to the extent that such items are consistent with the terms of Purchase Order. No other terms or conditions of Vendor's offer shall be binding upon Purchaser unless accepted by it in writing.
- 12. Revisions, Changes and Cancellations**
- a. The Purchaser may in writing, make any revisions or changes in the Purchase Order including additions to or deletion from the quantities originally ordered, in the specifications or drawings. The Vendor shall carry out such revisions / changes and be bound by such revised quantity, terms and conditions to the extent applicable as if the said revisions were incorporated in the initial order. If any such revisions / changes affect the contract price or delivery, the same shall be subject to adjustment of price / delivery, wherever required on a very reasonable basis by mutual agreement. In case of dispute; the Purchaser's/Consultant's decision shall be final and binding upon the Vendor.
 - b. For non-adherence to any terms and conditions of the Purchase Order by Vendor, Purchaser may at any time terminate the purchase order in part or in full by a written communication. In such event, Purchaser shall have the right to buy at its option from the Vendor, the cancelled goods and components whether complete or incomplete, after due inspection and verification of the same, paying for them a reasonable price arrived at by mutual agreement. In case no mutual agreement is reached within a reasonable time, the matter shall be referred to a Consultant and the decision of Consultant shall be final and binding on both Purchaser and Vendor. In absence of any Consultant, Purchaser's decision will be final and binding.
 - c. Vendor may claim for adjustment within fifteen (15) days from the date when the revision, change or cancellation is communicated.
 - d. Vendor shall not be entitled for any compensation, whatsoever for revision, changes, variations or cancellations, except when specifically agreed to by the Purchaser in writing.
- 13. Sales Conditions:** With Vendor's acceptance of provisions of purchase order, Vendor waives and considers void all of its sales conditions.
- 14. Vendor's Failure to Comply with Instruction:** Any loss or additional expenditure that Purchaser may be required to incur on account of Vendor's failure to comply with any of the conditions contained in the purchase order shall be recovered from Vendor.
- 15. Infringement of Patents, etc.:** Vendor shall warrant that sale or use of goods supplied under the purchase order whether designed and manufactured so as to comply with Purchaser's specifications or otherwise shall be free of any claim, whether rightful or otherwise, of any person, by way of infringement of any patent, copy-right, trademark or industrial design or the like, and shall hold Purchaser harmless and indemnify Purchaser and its Consultant and their authorized representatives at its own cost from any and all such claims and legal proceedings.
- Purchaser makes no warranty that the production, sale or use of the goods designed and manufactured so as to comply with Purchaser's specification will not give rise to the claim whether rightful or otherwise, of any third person by way of infringement of any patent, copyright, trademark or industrial design or the like and in no event shall Purchaser or its Consultant be liable to Vendor for indemnification in the event of any action being brought against Vendor in connection with any such claim.
- 16. Governing Laws & Jurisdiction:**
- a. The governing substantive law(s) shall be Indian Laws.
 - b. All the causes of action relating to purchase order if any, will be deemed to have arisen within the jurisdiction of the courts at Bharuch, Gujarat state, India only.

17. Resolution of Dispute:

All disputes or difference(s) whatsoever which shall at any time arise between the parties hereto touching or concerning the works or the execution or maintenance thereof of this Agreement/ Contract/ Work Order/ Purchase Order/ Service Order or the rights touching or concerning the works or the execution or maintenance thereof of this Agreement/ Contract/ Work Order/ Purchase Order/ Service Order, of the construction meaning operation or effect thereof or to the rights, liabilities of the parties or arising out of or in relation thereto whether during or after completion of the Agreement/ Contract/ Work Order/ Purchase Order/ Service Order or whether before or after determination, foreclosure or breach of the Agreement/ Contract/ Work Order/ Purchase Order/ Service Order, shall be referred by the disputing Party, in writing to the other Party, within 30 days of occurrence of such event, to resolve any such dispute or difference.

- a. If such dispute mentioned above is not resolved amicably by direct informal negotiation, within a period of 30 days, then such dispute/ difference shall be referred to the Engineer-In-Charge/ Additional General Manager of the concerned department of GNFC. Engineer-In-Charge/ Additional General Manager shall give its decision within 60 days of the reference of the dispute to him.
- b. If the Engineer-In-Charge/ Additional General Manager fails to deliver its decision within prescribed time period or either Party is dissatisfied with the decision of Engineer-In-Charge/ Additional General Manager, the dispute shall then be referred to the General Manager of the concerned department of GNFC, who shall give his decision within 90 days of the reference of dispute to him.
- c. If the General Manger fails to deliver its decision within prescribed time period or either Party is dissatisfied with the decision of General Manger, the dispute will be then referred to a panel of Executive Director – Technical and Executive Director – Finance of GNFC, whose decision shall be final and binding on both the Parties. The panel of Executive Directors shall give its decision within a period of 180 days from the date of reference of such dispute to the panel.
- d. If the Panel of Executive Directors fails to give its decision within the prescribed period or either Party is dissatisfied with the decision of the panel of Executive Directors, such disputes shall be referred to arbitration by serving an Arbitration Notice, as per the provisions of clause below “Arbitration”.

18. Arbitration:

- a. For the purposes of this Arbitration Clause, the Managing Director, Gujarat Narmada Valley Fertilizers and Chemicals Ltd. shall be the “Appointing Authority.”
- b. If any Party serves an Arbitration Notice in respect of any dispute to the Appointing Authority, the dispute shall be finally settled by arbitration under the Indian Arbitration and Conciliation Act, 1996 (“Act”) and all statutory amendments, modifications thereof and the rules made there under, or any other corresponding law for the time being in force, by the Sole Arbitrator to be appointed as hereinafter provided.
- c. Within 30 days of receipt of Arbitration Notice, the Appointing Authority shall appoint the Sole Arbitrator, who shall be a retired employee of GNFC, not below the rank of General Manager and who shall be qualified to be appointed as an Arbitrator under the law in force at the relevant time.
- d. The provisions of the Indian Arbitration Act, 1996 and all statutory enactments and modifications thereof and the rules made there under shall apply to all such arbitrations.
- e. The Arbitration proceedings shall be conducted in English and the venue and seat of the Arbitration proceedings shall be at Bharuch and the Courts at Bharuch shall have exclusive jurisdiction.
- f. The governing substantive law shall be Indian laws.

19. Disqualification:

Any Party / Vendor/ Supplier/ Contractor having raised any dispute/ litigation/ Arbitration against/with the Company or having any past history of legal dispute with the company or any existing legal dispute going on in any court of law by or against the Company, shall be liable to be disqualified from bidding/participating in the present tender OR any fresh/ amended tender inquiry that may be issued by the Company.

- 20. Conflict among Purchase Order and Mini GCP Terms & Conditions:** In case of any conflict between these (printed) Mini general conditions of purchase and the special (typed) conditions agreed to for a particular purchaser order, the later shall prevail to the extent applicable.

We confirm unconditional acceptance of GNFC's Mini GCP as above.

Place:

Date:

Sign & Stamp of Bidder